

THE HONOURABLE SRI JUSTICE V. ESWARAI AH

WRIT PETITION No.2157 OF 2006

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Dated: 06-02-2006

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Between

D. Satyanarayana, S/o. Venkata Chennaiah,
Occ: Business, Resident of Markapur Town
and Mandal, Prakasam District and others.

...PETITIONERS

AND

The Commissioner, Markapur Municipality,
Markapur, Prakasam District and others.

...RESPONDENTS

ORDER:

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Petitioners seek a Writ of Mandamus to declare the action of the respondents in taking steps to demolish the existing structures bearing Municipal No. 6/438(1), 6/438(2) and 6/438©, Markapur, Prakasam District without following due process of law and without initiating proceedings under the Land Acquisition Act (for short 'the Act') as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners constructed certain shops in the aforementioned municipal numbers after obtaining permission from the municipal Commissioner vide

BA 143/80-A3 dated 07.10.1980. He further submits that for the purpose of widening the old bus stand road of Markapur the second respondent earmarked the structures belonging to

the petitioners and the respondents are proposing to demolish the same without following due procedure prescribed in law. He further submits that even under the Municipalities Act without acquiring the lands of the private citizens, portion of any property cannot be taken away for the purpose of road widening, either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioners have not encroached any road and they have constructed the building or structures as per the approved plan only.

I am not inclined to express any opinion as to whether the land in question belongs to the petitioners or the municipality. If any portion of the property of the petitioners is coming in the way of road widening the respondents straightaway cannot dispossess the petitioners or demolish the existing structures without following due process of law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to dispossess the petitioners or demolish the structures belonging to the petitioners without following the due procedure prescribed in law.

V. ESWARAIAH, J

February 6, 2006

Note: Furnish C.C. of the order by 08.02.2006

(B/o)

DSK